

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 05.06.2018

CORAM

THE HON'BLE MR.JUSTICE P.VELMURUGAN

**C.R.P.(PD)No.1333 of 2018
and
C.M.P.No.6944 of 2018**

Malar

.. Petitioner

vs.

1.Samayapurathammal

2.Palaniammal

3.Ramayee

4.Latchumi

5.Vadivel

6.Palanisamy

7.Siddharaj

8.Gopi

9.Murugan

10.Sarasu

11.Easwari

12.Kavitha



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13.Punitha

14.Thangamani

15.Chithra

16.Dhanam .. Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 06.02.2018 passed in I.A.No.118 of 2018 in O.S.No.329 of 2011 by the learned Principal District Munsif, Salem.

For Petitioner ... Mr.Karnan and Uday

For Respondents ... Mr.Zeenath Begum
for R.1.

ORDER

The Civil Revision Petition has been filed by the petitioner seeking to set aside the fair and decretal order dated 06.02.2018 passed in I.A.No.118 of 2018 in O.S.No.329 of 2011 by the learned Principal District Munsif, Salem.

2.The petitioner herein is a proposed party in the suit in O.S.No.329 of 2011. The first respondent herein is the plaintiff and the respondents 2 to 16 are the defendants in the suit.

3.The brief facts of the case are as follows:

The first respondent/plaintiff filed the said suit against the respondents 2 to 16/defendants on the file of the Principal District Munsif, Salem, seeking for permanent injunction and to pass a preliminary decree for partition. The defendants also filed the written statement in the suit. Pending suit, one Malar, proposed party filed I.A.No.118 of 2018 under Order 1 Rule 10(2) and Section 151 of CPC to implead the proposed party as 16th defendant in the said suit. The Court below dismissed the said I.A. by order dated 06.02.2018 holding that the proposed party is not entitled to implead herself as party to the suit proceedings. Aggrieved by the same, the present Civil Revision Petition has been filed by the proposed party.

4.The learned counsel for the petitioner submitted that the petitioner is the legal heir of one Kandhayammal, who is the grandmother of the petitioner and she is entitled to the relief of partition and injunction in the suit property. Therefore, she is necessary party to the suit proceedings as the first respondent/plaintiff has no right and title over the suit property. The trial Court without taking into account the fact that the petitioner is one of the legal heirs, erroneously dismissed the application.

5. When the matter was taken up in the morning, at the request of the learned counsel for petitioner, it was passed over. Again, when the matter is taken up for hearing at 3.10 p.m, there is no representation for the petitioner. Hence, this Court is inclined to pass the orders on merits.

6. This Court has gone through the materials available on record carefully.

7. It is seen from the impugned order that the trial Court, after elaborately considering the facts and circumstances of the case and the arguments advanced by the learned counsel for both sides, held that the petitioner/proposed party is none other than the daughter of Palaniammal/the second respondent/first respondent. If the said Kandhayammal executed the settlement deed, the second respondent/first defendant alone is entitled to the suit property and the proposed party has no right over the suit property. Moreover, the petitioner/proposed party has not produced any documents to establish her right in the suit property and hence, she is not entitled to implead herself as a party to the suit proceedings. Hence, the trial Court rightly dismissed the application.

8.The above facts reveal that the petitioner is not having any interest in the suit property. The petitioner is neither necessary party nor proper party in the said suit. Therefore, there is no illegality or infirmity in the impugned order passed by the trial Court. Hence, this Court is not inclined to interfere with the order passed by the trial Court.

In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

05.06.2018

Index:Yes/No

Speaking Order:Yes/No

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To

The Principal District Munsif,
Salem.

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P.VELMURUGAN.J,

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